

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MICHAEL MARTIN,

Plaintiff,

v.

CHERYL STRANGE,

Defendant.

Case No. 3:23-cv-05039-TMC-BAT

ORDER GRANTING MOTION FOR  
VOLUNTARY DISMISSAL AND  
DISMISSING CASE WITHOUT  
PREJUDICE

Before the Court is Plaintiff Michael Martin’s motion to dismiss this case. Dkt. 33. Defendant Cheryl Strange (“Defendant”) has responded and informed the Court that she does not object to the motion. Dkt. 34. This case is referred to U.S. Magistrate Judge Brian A. Tsuchida pursuant to Amended General Order 11-22.

The Court construes Plaintiff’s motion as a request for voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(2), which provides that a plaintiff must request a court order to have their case dismissed subject to exceptions not applicable here. *See* Fed. R. Civ. P. 41(a)(1)(A).


“Whether to grant voluntary dismissal . . . is within the district court’s discretion.” *Smith v. Allen*, No. 1:23-cv-00480-ADA-HBK, 2023 WL 5745898, at \*1 (E.D. Ca. Sept. 6, 2023)

1 (citing *Stevedoring Servs. of Am. v. Armilla Int'l B.V.*, 889 F.2d 919, 921 (9th Cir. 1989)). Such  
2 motions should be granted “unless a defendant can show that it will suffer some plain legal  
3 prejudice as a result.” *Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2010). Dismissals under  
4 Rule 41(a)(2) are normally without prejudice. *Id.* at 976.

5 The Court VACATES the referral of this case to Judge Tsuchida. Because Defendant has  
6 notified the Court of her lack of opposition, the Court GRANTS the motion (Dkt. 33) and  
7 dismisses this case WITHOUT PREJUDICE. In addition, the Court DENIES Plaintiff’s motion  
8 to amend complaint (Dkt. 29) as MOOT.

9 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
10 to any party appearing pro se at said party’s last known address.

11 Dated this 20th day of October, 2023.

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Tiffany M. Cartwright  
United States District Court Judge